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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

6 Attorneys for the Plaintiffs,
7 ESTATE OF BERTHA V. JAMES, *et al.*

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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
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14 ESTATE OF BERTHA V. JAMES,
DECEASED, by the Personal Representative
15 Susie H. James, and BERVAlMES ASSOC.,
16 INC.,

17 Plaintiffs,

18 vs.

19 THE TYLER PERRY COMPANY, INC.,
20 LIONSGATE ENTERTAINMENT CORP.,
21 LIONS GATE FILMS, INC., LIONS GATE
ENTERTAINMENT, INC., TYLER PERRY,
22 and DOES 1-10,

23 Defendants.
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CV09 08712 JFW VBKx
CASE NO.

COMPLAINT FOR COPYRIGHT
INFRINGEMENT AND DEMAND FOR
JURY TRIAL

1 Plaintiffs ESTATE OF BERTHA V. JAMES, DECEASED by the Personal
2 Representative, Susie H. James and Bervalmes Assoc., Inc., as assignee and successor to
3 the rights of Bertha V. James (collectively, "Plaintiffs") allege as follows:

4
5 **Nature of This Action**

6 1. This case involves the unauthorized use of Plaintiffs' lyrics from the song "When I
7 Think of the Goodness of Jesus," without a license. The lyrics were synchronized and reduced to
8 digital media, film and audio which Defendants distributed as part of their work "Madea Goes To
9 Jail" Perry, Tyler; 2008; Lions Gate Films.

10
11 **Jurisdiction and Venue**

12 2. This is an action for copyright infringement arising under the Copyright Act of
13 1976, 17 U.S.C. § 101 et seq., ("The Copyright Act"). This Court has exclusive subject matter
14 jurisdiction pursuant to 28 U.S.C. §§1338(a) and 1331.

15 3. Independently, the Court has subject matter jurisdiction over this action pursuant to
16 28 U.S.C. § 1332 because the matter in controversy exceeds \$75,000 and is between citizens of
17 different states.

18 4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and
19 1400.

20
21 **The Parties**

22 5. Plaintiff Susie H. James is the Personal Representative of the Estate of Bertha V.
23 James, an individual decedent's estate in the State of Alabama.

24 6. Plaintiff Bervalmes Assoc., Inc is a duly organized corporation under the
25 laws for the State of Alabama, and the assignee and successor to the published rights of the Estate
26 of Bertha V. James.
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1 7. Defendant THE TYLER PERRY COMPANY, INC. ("TPC") is a corporation
2 incorporated in the State of Georgia, doing business in the State of California. Plaintiffs are
3 informed and believe that TPC is qualified to do business in the State of California. TPC has
4 appropriated intellectual property of the Plaintiffs.

5 8. Defendants LIONSGATE ENTERTAINMENT CORP., a Corporation
6 Incorporated in British Columbia, Canada, LIONS GATE FILMS, INC., a Delaware Corporation,
7 LIONS GATE ENTERTAINMENT, INC., a Delaware Corporation (collectively
8 "LIONSGATE"), are doing business in the State of California. Plaintiffs are informed and believe
9 that the LIONSGATE Defendants are qualified to do business in the State of California and are
10 headquartered at 2700 Colorado Avenue, Suite 200, City of Santa Monica, County of Los
11 Angeles, California. LIONSGATE has appropriated, published and distributed intellectual
12 property belonging to the Plaintiff Estate of Bertha V. James.

13 9. Defendant TYLER PERRY is an individual and author of the infringing work
14 "Madea Goes to Jail," a major motion picture feature production which has used and appropriated
15 intellectual property of the Plaintiffs. Plaintiffs are informed and believe that TYLER PERRY is
16 doing business in the State of California.

17 10. Plaintiffs are unaware of the true names and capacities, whether individual,
18 corporate, associate, or otherwise, of defendants Does 1 through 20, inclusive, or any of them, and
19 therefore sue these defendants, and each of them, by such fictitious names. Plaintiffs will amend
20 this Complaint when the identities of these defendants are ascertained.
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Background

11. Plaintiffs' Decedent Bertha V. James is the author of "When I Think of the Goodness of Jesus," a traditional gospel song, which was published and copy written in 1974 by Elma & Carl's Publisher, Inc.

12. Plaintiff's Decedent wrote the song in 1950, and the song was copy written and then incorporated in Plaintiff's Decedent's derivative work "The Golden Hour," copy written 1990: Txu 4C4 716; see also TX 2 939 980 and again copy written June 18, 1996; Paul 2-095-293.

13. Defendants through TYLER PERRY incorporated an entire verse of Plaintiff's work, willfully without a license within their audiovisual work in a major motion picture feature film entitled "Madea Goes to Jail," Lionsgate Studios 2008.

FIRST CAUSE OF ACTION

FOR COPYRIGHT INFRINGEMENT

14. Plaintiffs reallege and incorporate by reference each and every preceding paragraph as if fully set forth herein.

15. Plaintiffs' decedent Bertha V. James was a published and established traditional gospel artist and composer, whose works had intrinsic commercial value and inherent value in terms of her own legacy in the body of traditional American gospel music.

16. Defendants are engaged in the business of exploitation of said tradition and legacy for profit.

17. Defendants willfully copied lyrics of the song "When I Think of the Goodness of Jesus," incorporating the entire Chorus in a monologue delivered by the main character "Madea" referencing her deliverance from a jail sentence and leniency for repetitive criminal conduct, in a staged court proceeding presided over by "Judge Mabeline".

1 18. Defendants failed to seek permission to use Plaintiffs' decedent's work, and
2 exploited same work and incorporated it in Defendants' gauche comedy.

3 19. Plaintiffs are entitled to compensation in the form of an implied license, statutory
4 damages, actual damages, punitive damages, attorneys' fees, as well as pre and post judgment
5 interest for the infringement and wrongful use of the song's lyrics and infringement of Plaintiffs'
6 ownership to the published rights of Bertha V. James.
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8 20. Defendants' direct and willful acts have damaged Plaintiffs, causing
9 Plaintiffs' Decedent harm in deliberate prejudice of her property rights.
10

11 WHEREFORE, Plaintiffs pray for relief as follows:

- 12 A. For an award of statutory and actual damages;
13 B. For an award of exemplary and punitive damages;
14 C. For an award of Plaintiffs' costs and reasonable attorney's fees incurred in
15 connection with this action;
16 D. For pre-judgment and post-judgment interest; and
17 E. For such other and further relief as this Court deems just and proper.
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19 DATED: November 25, 2009

AHDOOT & WOLFSON, APC

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21 By 

22 Tina Wolfson
23 Attorneys for Plaintiffs
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JURY DEMAND

Plaintiffs respectfully request a jury trial on all issues triable thereby.

DATED: November 25, 2009

AHDOOT & WOLFSON, APC

By

Tina Wolfson

Attorneys for Plaintiffs